

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7135 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHARAT TEJABHAI BAROT

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR. NIGAM SHUKLA, Addl. G.P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 08/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 31.8.1996 passed by the Police Commissioner, Rajkot City detaining the petitioner under the Gujarat Prevention of Anti-Social Activities Act, 1985. The petitioner is under detention lodged at Mehsana District Jail, Mehsana.

This Special Civil Application was filed on 19.9.1996 and rule returnable was issued on 5.10.1996. So far neither any reply has been filed nor any affidavit of the detaining authority has been filed.

The grounds of detention enclosed with the detention order show that six criminal cases were registered against the petitioner for offences under Indian Penal Code. Besides this, the detaining authority has taken into consideration the statements made by three witnesses against the petitioner's criminal activities. The petitioner has been found to be dangerous person and engaged in criminal activities and has been detained as such.

The detention order has been challenged on more than one grounds. At the time of arguments the learned counsel has stressed that no case of breach of public order was made out. In view of the law laid down by the Supreme Court in the case of MUSTAKMIYA JABBARMIYA SHAIKH VS. M.M. MEHTA, COMMISSIONER OF POLICE reported in 1995(2) G.L.R. 1268 it is clear that the allegations and the material relied upon by the detaining authority against the petitioner do not constitute a case of breach of public order. It is at the most a case of breach of law and order. The detention order deserves to be set aside on this ground alone.

Accordingly, the Special Civil Application is allowed and the impugned detention order dated 31.8.1996 passed by the Police Commissioner, Rajkot City, is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.

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